



153510-16-P

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### Applications for Trademark Registration

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection: 0651-0009 (Applications for Trademark Registration).

**DATES:** Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments by any of the following methods:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0009 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-8946; or by e-mail to Catherine.Cain@uspto.gov with “0651-0009 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

## **SUPPLEMENTARY INFORMATION**

### **I. Abstract**

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. §1051 *et seq.*, which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses who use their marks, or intend to use their marks, in commerce regulated by Congress may file an application with the USPTO to register their marks. Registered marks remain on the register indefinitely, so long as the owner of the registration files the necessary maintenance documents. The rules implementing the Trademark Act are set forth in 37 CFR Part 2.

The Act and rules mandate that each certificate of registration include the mark, the particular goods and/or services for which the mark is registered, the owner's name, dates of use of the mark in commerce, and certain other information. The USPTO also provides similar information to the public concerning pending applications. Individuals or businesses may determine the availability of a mark by accessing the register through

the USPTO's website: [www.uspto.gov/trademark](http://www.uspto.gov/trademark). Accessing and reviewing the USPTO's publicly available information may reduce the possibility of initiating use of a mark previously registered or adopted by another. Thus, the Federal trademark registration process reduces unnecessary litigation and its associated costs and burdens.

Trademarks can be registered on either the Principal or Supplemental Register. Registrations on the Principal Register confer all of the benefits of registration provided under the Trademark Act. Certain marks that are not eligible for registration on the Principal Register, but are capable of functioning as a trademark, may be registered on the Supplemental Register. Registrations on the Supplemental Register cannot be transferred to the Principal Register, but owners of registrations on the Supplemental Register may apply for registration of their marks on the Principal Register.

The information in this collection can be submitted in paper format or electronically through the Trademark Electronic Application System (TEAS). Applicants who file using the TEAS RF or TEAS Plus forms pay a lower filing fee than applicants who file using the TEAS Regular form. These applicants must agree to file certain communications regarding the application through TEAS and to receive communications by e-mail. TEAS Plus users must also file a "complete" application, select their identification(s) of goods/services from the USPTO's Acceptable Identification of Goods and Services Manual, and pay the fees for all classes at the time of filing. TEAS Plus applications are only available for trademark/service mark applications. There are no TEAS Plus application forms available for certification marks,

collective marks, collective membership marks, and applications for registration on the Supplemental Register at this time.

## **II. Method of Collection**

Electronically via TEAS forms, by mail, or by hand delivery.

## **III. Data**

*OMB Number:* 0651-0009.

*Instrument Number(s):* PTO Forms 1478, 1479, 1480, 1481, 1482.

*Type of Review:* Extension of a Previously Existing Information Collection.

*Affected Public:* Businesses or other for-profits; not-for-profit institutions; individuals.

*Estimated Number of Respondents:* 437,599 responses per year.

*Estimated Time Per Response:* The USPTO estimates that it takes the public approximately 23 minutes (0.38 hours) to 35 minutes (0.58 hours) to complete this information, depending on the application. This includes the time to gather the necessary information, prepare the application, and submit the complete request to the USPTO. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

*Estimated Total Annual Respondent Burden Hours:* 205,854.64 hours per year.

*Estimated Total Annual Respondent Cost Burden:* \$90,164,332.32. The USPTO expects that associated attorneys will complete these applications. The professional hourly rate for attorneys is \$438. The rate is established by estimates in the 2017 Report on the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using this hourly rate,

the USPTO estimates that the total respondent cost burden for this collection is \$90,164,332.32 per year.

<b>IC #</b>	<b>Item</b>	<b>Estimated Time for Responses (Hours) (a)</b>	<b>Estimated Responses (b)</b>	<b>Estimated Burden Hours (c) (a) x (b)</b>	<b>Rate (d)</b>	<b>Estimated Respondent Cost (e) (c) x (d)</b>
1	Use-Based Trademark/Service Mark Applications (Paper)	0.58 (35 minutes)	58	33.64	\$438.00	\$14,734.32
1	Use-Based Trademark/Service Mark Applications (TEAS)	0.50 (30 minutes)	7,752	3,876.00	\$438.00	\$1,697,688.00
1	Use-Based Trademark/Service Mark Applications (TEAS RF)	0.50 (30 minutes)	94,756	47,378.00	\$438.00	\$20,751,564.00
1	Use-Based Trademark/Service Mark Applications (TEAS Plus)	0.58 (35 minutes)	82,053	47,590.74	\$438.00	\$20,844,744.12
2	Intent to Use Trademark/Service Mark Application (Paper)	0.47 (28 minutes)	70	32.90	\$438.00	\$14,410.20
2	Intent to Use Trademark/Service Mark Application (TEAS)	0.38 (23 minutes)	9,390	3,568.20	\$438.00	\$1,562,871.60
2	Intent to Use Trademark/Service Mark Application (TEAS RF)	0.38 (23 minutes)	114,779	43,616.02	\$438.00	\$19,103,816.76
2	Intent to Use Trademark/Service Mark Application (TEAS Plus)	0.47 (28 minutes)	99,392	46,714.24	\$438.00	\$20,460,837.12
3	Applications for Registration of Trademark/Service Mark under §44 (Paper)	0.50 (30 minutes)	9	4.50	\$438.00	\$1,971.00

3	Applications for Registration of Trademark/Service Mark under §44 (TEAS)	0.40 (24 minutes)	1,232	492.80	\$438.00	\$215,846.40
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS RF)	0.40 (24 minutes)	15,064	6,025.60	\$438.00	\$2,639,212.80
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS Plus)	0.50 (30 minutes)	13,044	6,522.00	\$438.00	\$2,867,636.00
	<b>Totals</b>		<b>437,599</b>	<b>205,854.64</b>		<b>\$90,164,332.32</b>

*Estimated Total Annual (Non-hour) Respondent Cost Burden:* \$109,770,653.13. There are no capital start-up, maintenance, or operating fees associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of filing fees, processing fees, and postage costs. The USPTO amended its rules to set, increase or decrease certain trademark fees, effective January 14, 2017 affecting many of the fees in this collection.

There is also an annual (non-hour) cost burden associated with this collection in the form of filing fees. Applicants who file their applications electronically instead of submitting them on paper pay a reduced filing fee. Those who choose to file TEAS RF or TEAS Plus applications pay a further reduced fee. An application must include a filing fee for each class of goods and services. Therefore, the total filing fees associated with this collection can vary depending on the number of classes in each application.

The total filing fees of \$109,561,086.00, shown in the table below, reflect the minimum filing fees associated with this information collection.

<b>IC #</b>	<b>Item</b>	<b>Responses (a)</b>	<b>Filing Fee (b)</b>	<b>Total Filing Fee Cost (c) (a) x (b)</b>
1	Use-Based Trademark/Service Mark Applications (Paper)	58	\$600.00	\$34,800.00
1	Use-Based Trademark/Service Mark Applications (TEAS)	7,752	\$400.00	\$3,100,800.00
1	Use-Based Trademark/Service Mark Applications (TEAS RF)	94,756	\$275.00	\$26,057,900.00
1	Use-Based Trademark/Service Mark Applications (TEAS Plus)	82,053	\$225.00	\$18,461,925.00
2	Intent to Use Trademark/Service Mark Application (Paper)	70	\$600.00	\$42,000.00
2	Intent to Use Trademark/Service Mark Application (TEAS)	9,390	\$400.00	\$375,600.00
2	Intent to Use Trademark/Service Mark Application (TEAS RF)	114,779	\$275.00	\$31,564,225.00
2	Intent to Use Trademark/Service Mark Application (TEAS Plus)	99,392	\$225.00	\$22,363,200.00
3	Applications for Registration of Trademark/Service Mark under §44 (Paper)	9	\$600.00	\$5,400.00
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS)	1,232	\$400.00	\$492,800.00
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS RF)	15,064	\$275.00	\$4,127,536.00

3	Applications for Registration of Trademark/Service Mark under §44 (TEAS Plus)	13,044	\$225.00	\$2,934,900.00
	<b>Totals</b>	<b>437,599</b>		<b>\$109,561,086.00</b>

In addition, the USPTO charges a processing fee of \$125.00 per class for certain TEAS RF and TEAS Plus applications. If an applicant files a TEAS Plus or TEAS RF application that does not satisfy the relevant requirements for TEAS RF or TEAS Plus, they will be required to submit the additional \$125 processing fee to bump the application back up to TEAS Regular. The total processing fees associated with this collection can vary depending on the number of classes in each application.

The total processing fees of \$209,500, shown in the table below, reflect the minimum processing fees associated with this information collection.

IC #	Item	Responses (a)	Processing Fee	Total Processing Fees
1	Processing fee for applications that fail to meet the additional filing and processing requirements for the reduced filing fee (TEAS RF)	898	\$125.00	\$112,250.00
1	Processing fee for applications that fail to meet the additional filing and processing requirements for reduced filing fee (TEAS Plus)	778	\$125.00	\$97,250.00
	<b>Totals</b>	<b>1,676</b>		<b>\$209,500.00</b>

Applicants incur postage costs when submitting the non-electronic information covered by this collection to the USPTO by mail. The USPTO expects that approximately 99 percent of the responses in this collection will be submitted electronically. The USPTO estimates that the overwhelming majority of the paper forms

are submitted to the USPTO via first-class mail. The USPTO estimates that 137 will be mailed with a first-class-postage cost of \$0.49 per submission. Therefore, the USPTO estimates that the postage costs for this collection will be \$67.13.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection in the form of filing fees (\$109,561,086), processing fees (\$209,500), and postage costs (\$67.13) is \$109,770,653.13.

#### **IV. Requests for Comments**

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection. They also will become a matter of public record.

Comments are invited on:

- a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- b) The accuracy of the agency's estimated of the burden (including hours and cost) of the proposed collection of information;
- c) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- d) Ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

**Marcie Lovett,**

*Records and Information Governance Division Director, OCTO ,*

*United States Patent and Trademark Office.*

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